

**MINERAL TENURE ACT AMENDMENTS - FREE MINER ENTRY ON PRIVATE
LAND
STAKEHOLDER INFORMATION**

Mineral Tenure Act Amendment

Bill 12, which included several amendments to the *Mineral Tenure Act*, was approved by the BC Legislature during the Spring 2007 session. Included in the amendments is a new section 19 (1) which reads:

- 19 (1) A person must not begin a mining activity unless
- (a) the person first serves notice, in the prescribed form and manner, on
 - (i) the owner, other than the government, of every surface area,
 - (ii) the holder of a lease of Crown land under section 11 of the *Land Act* granting the holder exclusive surface rights to the leased land, and
 - (iii) the holder, under Part 5 of the *Land Act*, of a disposition of Crown land,on which the person intends to work or intends to utilize a right of entry for that purpose, and
 - (b) the prescribed period has elapsed from the date that notice was served under paragraph (a).

(1.1) The chief gold commissioner, in the prescribed circumstances, may exempt a person from the requirements of subsection (1).

This new section is not yet in force. When it is brought into effect, it will replace the following:

- 19** (1) A person must not commence a mining activity by a method using mechanical equipment that disturbs the surface unless the recorded holder
- (a) first serves written notice on the owner of every surface area on which the recorded holder intends to work or intends to utilize a right of entry for that purpose, and
 - (b) provides, within 30 days after serving the notice required by paragraph (a), a copy of the notice to the chief gold commissioner and to an inspector under the *Mines Act*.

Impact of amendments

The primary effect of the new section 19(1) is to require free miners to notify landowners before entering private land for any mining activity. This replaces the requirement to notify owners only when the surface is disturbed using mechanical equipment. It also expands the notification to include the holders of certain Crown land leases. The new section 19(1) has deleted the obligation to send government officials copies of the notice.

Regulations

Prior to bringing the entry notice changes into effect, regulations should be developed which prescribe the content of the notice, how the notice is to be delivered, the length of time between service of notice and entry and the circumstances under which the Chief Gold Commissioner may exempt a person from the requirements.

Stakeholder involvement

The Ministry of Energy, Mines and Petroleum Resources has prepared the attached draft regulatory requirements for discussion. This material is being provided to a range of stakeholders, including mining industry associations, private landowner groups and local governments. Stakeholders are being invited to provide feedback on:

- Notice content: the information that should be provided to a landowner/lease holder before entry on the property
- Delivery method: how the notice should be given to the landowner/lease holder
- Timing: how long in advance of entry can notice be served and how soon after notice is provided should a miner be able to enter the property
- Exemptions: under what circumstances should the Chief Gold Commissioner exempt a miner from the notice requirements

The attached draft notice form regarding entry for prospecting has also been prepared for information and discussion. The use of a standard form will not be mandatory but some miners may find a form useful. Stakeholders are invited to comment on the form content and layout and also whether they would like a form that could be used for mining activities other than prospecting.

The initial method of information exchanges with stakeholders is anticipated to be through email. Telephone conversations or face-to-face meetings will be arranged with those parties who would like to participate in detailed discussions.

Information for miners

The government intends to prepare an information pamphlet geared to free miners that will explain the best methods for determining private landowners. Information regarding Crown leases is now available for free through the Integrated Land and Resource Registry (ILRR). The Integrated Land Management Branch may develop a tool that will select only the Crown land leases of interest to free miners. This will greatly simplify the use of the ILRR. The tool could also be designed to help with the identification of private land.

Information for landowners

The government intends to prepare an information pamphlet geared to landowners that will explain the rights of surface and subsurface owners.

Timing

Stakeholder discussions are planned for late August and September. Implementation of the new notification requirements is expected prior to the 2008 mining exploration season.

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